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OCT 22 2004

**BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA**

**NEBRASKA DEPARTMENT
OF INSURANCE**

STATE OF NEBRASKA)	CAUSE NO.: A-1567
DEPARTMENT OF INSURANCE,)	
)	
PETITIONER,)	
)	FINDINGS OF FACT,
vs.)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
TIMOTHY C. STARINIERI,)	ORDER
)	
RESPONDENT.)	

This matter came on for hearing on the 20th day of October, 2004, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Janette Adair. Timothy C. Starinieri ("Respondent") was not present and was not represented by counsel. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed non-resident insurance producer whose registered address with the Department is 1051 Elden Street, Herndon, VA 20170. (Ex. 1).
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. On or about August 31, 2004, the Petition and Notice of Hearing were served upon Respondent by mailing the same to his address of record by certified mail, return receipt requested. On or about September 10, 2004, the letter was returned to the

Department marked as "Not Deliverable as Addressed Unable to Forward." The letter had a hand written note stating, "No longer works here." On or about September 21, 2004, the letter was re-sent to Respondent at his registered home address. On or about October 4, 2004, the letter was returned to the Department marked "Return to Sender" by the U.S. Postal Service. On October 14, 2004, the Department again sent the letter to a forwarding address of 12412 Rock Ridge Road, Herndon, VA 20170-5722 by certified mail. As of the date of the hearing, the Department had not received the certified receipt or the returned envelope. (Ex. 1). Respondent did not notify the Department of a change in his registered business or home address.

4. The Department informed Respondent of the requirement for an annual certified public accountant audit required pursuant to *Neb. Rev. Stat. §44-19,116* by Notice of December 17, 2003 sent to all title insurance agents by U.S. Mail, postage prepaid. (Ex. 1). Said letter was not returned to the Department.

5. Pursuant to *Neb. Rev. Stat. §44-19,116*, all title insurance producers were to have an audit conducted by a certified public accountant. Said audit was to cover the period of the previous calendar year and a copy submitted to the Department by March 31, 2004. See 210 *Neb. Admin. R. & Regs. 34-007* (2004).

6. Respondent did not file an audit report with the Department by March 31, 2004. (Ex. 2).

7. On or about April 9, 2004, the Department sent a letter to Respondent about Respondent's failure to file the annual certified public accountant audit and informing him of the penalties for his failure to file the audit report or notify the Department of an exemption from the requirement. (Ex. 2).

8. Respondent did not respond to the Department's letters nor did Respondent file the required certified public accountant audit report. (Ex. 2).

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-4041 et seq.*

2. The Department has personal jurisdiction over Respondent.

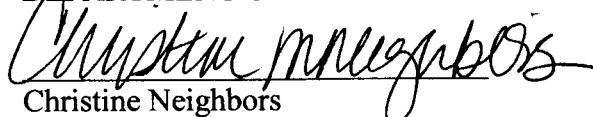
3. Respondent violated *Neb. Rev. Stat. §44-19,116 (2)* and *210 Neb. Admin. R. & Regs. 34-007*. In addition, Respondent violated *Neb. Rev. Stat. §44-4054(8)* by failing to notify the Department of his change of address within thirty days after the change.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer's license be revoked.

Dated this 21st day of October, 2004.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Timothy C. Starinieri, Cause No.: A-1567.

Dated this 22nd day of October, 2004.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 12412 Rock Ridge Road, Herndon, VA 20710-5722 by certified mail, return receipt requested and U.S. Mail, postage prepaid on this 25th day of October, 2004.

